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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,042	12/15/2003	Wayne Robert Furlan	06367 USA	4014

23543 7590 06/29/2005

AIR PRODUCTS AND CHEMICALS, INC.
PATENT DEPARTMENT
7201 HAMILTON BOULEVARD
ALLENTOWN, PA 181951501

EXAMINER

COONEY, JOHN M

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 06/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/736,042

Applicant(s)

FURLAN ET AL.

Examiner

John m. Cooney

Art Unit

1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4 shts</u> . | 6) <input type="checkbox"/> Other: ____. |

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Chojnacki et al.(5,883,142).

Chojnacki et al. disclose polyurethane foams prepared from isocyanates, polyols, hydrocarbon, fluorocarbon, and water blowing agents of the structure and boiling points claimed, catalysts as claimed, and oxyalkylene silicone foam stabilizers meeting the structures as claimed by applicants. The particulars of the instantly compared surfactant structures overlap to a degree that anticipation is held to be evident.(see the entire document).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fishback (5,686,499) in view of Wohlman et al.(6,891,051).

Fishback discloses polyurethane foams prepared from isocyanates, polyols, hydrocarbon, fluorocarbon, and water blowing agents of the structure and boiling points claimed, catalysts as claimed, and oxyalkylene silicone foam stabilizers of close structure to those claimed (see the entire document).

Fishback differs from applicants' claims in that the alkylene oxide based chain is not recited to be at the required proximity to the terminal $-\text{OSi}(\text{CH}_3)_3$ group. However, Wohlman et al.(6,891,051) recite that the surfactants of the claims are well known to the art for their surfactant effect (see column 4 lines 10-32, as well as, the entire document). Accordingly, it would have been obvious for one having ordinary skill in the art to have employed the surfactants of Wohlman et al. in the silicon surfactant employing preparations of Fishback et al. for the purpose of imparting their surfactant effect in order to arrive at the products and processes of applicants' claims with the expectation of success in the absence of a showing of new or unexpected results.

Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fishback (5,686,499) in view of Gerkin et al.(5,525,640).

Fishback discloses polyurethane foams prepared from isocyanates, polyols, hydrocarbon, fluorocarbon, and water blowing agents of the structure and boiling points

claimed, catalysts as claimed, and oxyalkylene silicone foam stabilizers of close structure to those claimed (see the entire document).

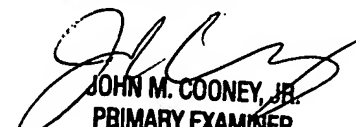
Fishback differs from applicants' claims in that the alkylene oxide based chain is not recited to be at the required proximity to the terminal $-\text{OSi}(\text{CH}_3)_3$ group. However, Gerkin et al. recite that the surfactants inclusive of those claimed are well known to the art for their surfactant effect, particularly, in urethane applications (see the entire document). Accordingly, it would have been obvious for one having ordinary skill in the art to have employed the surfactants of Gerkin et al. in the silicon surfactant employing preparations of Fishback et al. for the purpose of imparting their surfactant effect in order to arrive at the products and processes of applicants' claims with the expectation of success in the absence of a showing of new or unexpected results.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. O'Lenick, Jr.(5,235,017) & Lin et al.(6,221,979) are cited for their disclosure of interesting silicone compounds in the art. The Siltech Web Disclosure is cited for its interesting background information.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Cooney whose telephone number is 571-272-1070. The examiner can normally be reached on M-F from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck, can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


JOHN M. COONEY, JR.
PRIMARY EXAMINER
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